

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Stephen Poellot	Team: Team # 7	CCRB Case #: 200701433	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 09/09/2006 1:50 AM	Location of Incident: Arthur Kill Road & Ellis Street	Precinct: 123	18 Mo. SOL 3/9/2008	EO SOL 3/9/2008	
Date/Time CV Reported Wed, 01/24/2007 3:50 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 01/30/2007 3:15 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Vitoliy Zelikov	27266	936353	123 PCT
2. Officers			
3. POM Aiman Ahmed	13263	936104	123 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Joseph Marino	31057	899529	HWY 05
2. SGT Thomas Mccauley	02023	880037	123 PCT
3. POM Anil Cherian	29911	931593	123 PCT
4. POM Michael Ruby	06018	937452	123 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Aiman Ahmed	Force: PO Aiman Ahmed used physical force against § 87(2)(b)	
B. Officers	Force: Officers used physical force against § 87(2)(b)	
C.POM Vitoliy Zelikov	Force: PO Vitoliy Zelikov used physical force against § 87(2)(b)	

Synopsis

On September 9, 2006, at approximately 1:50 a.m., § 87(2)(b) left Club Hush, located at the intersection of Ellis Street and Arthur Kill Road in Staten Island. He got into his car and began to drive home. § 87(2)(b) had been drinking at the club and was at twice the legal limit of intoxication. There were several empty beer cans in his car. He began to swerve into oncoming traffic and was pulled over by two officers, identified by the investigation as PO Vitoliy Zelikov and PO Aiman Ahmed of the 123rd Precinct. PO Zelikov and PO Ahmed approached § 87(2)(b) and ordered him to get out of his car. He was unresponsive, so PO Zelikov physically removed him from the car and began to walk him back towards the rear of his vehicle. § 87(2)(b) alleged that while he was standing at the back of the vehicle and talking to PO Zelikov, PO Ahmed came from behind him and slammed him in his back, causing him to fall to the ground (allegation A). He was then subdued and handcuffed. As he was being brought to their patrol car, § 87(2)(b) physically resisted the officers and refused to enter the patrol car. PO Zelikov and PO Ahmed, with the assistance of PO Anil Cherian, who had responded to a call for additional units, forcibly placed § 87(2)(b) in the back of the patrol car (allegation B). § 87(2)(b) alleges that PO Zelikov punched him in the face while he was in back of the patrol car (allegation C). When interviewed by the CCRB, § 87(2)(b) claimed multiple physical injuries, including scrapes, bruising, a bump to his head, rotator cuff pain, and a mild concussion. Medical records show that § 87(2)(b) did not sustain or claim to sustain any injuries when he was treated for asthma-related problems the day of the incident. § 87(2)(b)'s statement was found to be thoroughly incredible. § 87(2)(g)

Investigator Stephen Clarke conducted the investigation of this complaint; the undersigned drafted the closing report.

Summary of Complaint

§ 87(2)(b) called IAB on January 24, 2007 to complain about the arrest of her brother, § 87(2)(b) on September 9, 2006 (encl. 4a-b). She stated that § 87(2)(b) was thrown to the ground for no reason, punched in the head while handcuffed, and sustained scrapes, scratches, and a bump on his head. As § 87(2)(b) did not witness the incident, no statement was obtained from her. § 87(2)(b) gave a phone statement on February 8, 2007 (encl. 7a-b) and was interviewed at the CCRB on February 12, 2007 (encl. 8a-e). His statements were consistent and any discrepancies are noted below. § 87(2)(b) also made statements when he was taken to Richmond University Hospital on Staten Island, where he told nurses and attending physicians that he needed his inhaler (encl. 6a-b). He did not complain or make any statements about additional injuries. § 87(2)(b) is a § 87(2)(b)-year-old white male, standing 5'10" tall and weighing 185 lbs.

On September 9, 2006, § 87(2)(b) went to Club Hush at the intersection of Ellis Street and Arthur Kill Road in Staten Island. § 87(2)(b) arrived shortly before midnight and remained at the club about an hour. § 87(2)(b) denied drinking any alcohol or taking any drugs or medication before going to the club. While at the club, § 87(2)(b) had "one or two regular sized glasses" of unmixed Johnny Walker Red Label Whiskey. He added that the drinks were a little stronger than usual. After spending a little over an hour in the club, § 87(2)(b) left because it was getting too crowded.

§ 87(2)(b) walked to his car, which was parked on Ellis Street, about 500 feet from the club. He inhaled one dose from his Combivent asthma inhaler. § 87(2)(b) usually takes two doses about four minutes apart, but he never had the chance to take a second dose. As he drove away from the club towards Arthur Kill Road, an officer standing on the passenger's side of § 87(2)(b)'s vehicle told him to stop and "hold it right there." This officer was identified by the investigation as PO Vitoliy Zelikov. A second officer, identified by the investigation as PO Aiman Ahmed, came off of the sidewalk and approached § 87(2)(b)'s car, screaming for him to stop. § 87(2)(b) slammed on the brakes to avoid striking PO Ahmed, who "jumped in front" of his car. At this point, § 87(2)(b)'s car was "crawling" forward at approximately 15 miles per hour or less. PO Zelikov walked to the driver's

side and § 87(2)(b) asked what the problem was. PO Zelikov asked § 87(2)(b) how many drinks he had. § 87(2)(b) answered by saying that he had about one drink. PO Zelikov asked § 87(2)(b) to get out of his car. § 87(2)(b) told PO Zelikov that he had not done anything and that he did not know why he was being stopped. § 87(2)(b) then exited his vehicle.

§ 87(2)(b) initially stated that after he exited his vehicle he, “found himself at the back of [his] car.” Upon further questioning, § 87(2)(b) stated that PO Zelikov pulled on him. Upon further questioning, § 87(2)(b) stated that PO Zelikov grabbed his right arm and walked him to the back of his car. § 87(2)(b) stood at the back of his car facing the rear of his car, about four feet from the car, and PO Zelikov stood to his left near the driver’s side of the back bumper. A person whom § 87(2)(b) could not see, but he believed to be PO Ahmed, came from behind and struck § 87(2)(b) in the middle of his back. § 87(2)(b) was “knocked down like a truck hit [him].” He lost consciousness and fell to the ground. He was not sure how he hit the ground. When he woke up, § 87(2)(b) was on one knee facing the rear of his car and was getting to his feet. § 87(2)(b) initially stated that he believed he was knocked into PO Zelikov when PO Ahmed hit him. Upon further questioning, § 87(2)(b) stated that when he woke up, he apologized to someone whom he could not identify.

§ 87(2)(b) stood up and the officers handcuffed him and began pulling on § 87(2)(b)’s body from behind from all angles. The pulling caused unspecified injuries to the rotator cuffs of both of his arms. The officers lifted up § 87(2)(b)’s arms and began to push him to place him into the car. While standing near the back bumper of the police car, § 87(2)(b) “locked” his legs and refused to let the officers push him around any more. § 87(2)(b) told the officers that he would get into their car on his own. § 87(2)(b) then entered the police car and sat down in the rear passenger’s side of the car. PO Zelikov closed the rear passenger side door, walked to the driver’s side, opened the rear driver’s side door of the police car and punched § 87(2)(b) once in the head with a closed fist. PO Zelikov punched § 87(2)(b)’s left temple area below his hairline causing § 87(2)(b) to suffer a lump on his head and causing § 87(2)(b) to lose consciousness once again. PO Zelikov did not say anything to § 87(2)(b) immediately before he punched him and § 87(2)(b) did not say anything to PO Zelikov immediately before he was punched.

When § 87(2)(b) woke up, he was in a room in the police station. He had no idea how he got there and there were three officers with him, who ordered him to walk. § 87(2)(b) “might have passed a comment that I needed my oxygen spray.” When asked if he specifically recalled making such a statement, § 87(2)(b) said, “I couldn’t tell you for sure.” After walking, § 87(2)(b) was taken to a holding cell. While sleeping in the cell, an inmate woke § 87(2)(b) up because he could not breathe, another inmate complained that § 87(2)(b) was making odd sounds, and both told him that he was having some kind of fit. § 87(2)(b) could not recall exactly what was happening during this time.

§ 87(2)(b) stated that he started telling people that he could not breathe in the morning after he was brought breakfast. A Hispanic female officer told § 87(2)(b) that the judge might see him today and let him out. § 87(2)(b) said, “Listen, I have to go to the...to uh...I can’t breathe and she says...I don’t think she’s the one that said it. The other ones were saying it: If you go to the hospital you’re not going to see the judge today.” § 87(2)(b) stated that two officers, the Hispanic female and an unidentified white male, made the comment about the judge and he told them that he was not worried about the judge, he was worried about dying. Unidentified officers promised § 87(2)(b) that they were going to give § 87(2)(b) his asthma spray, but § 87(2)(b) did not immediately receive his spray. § 87(2)(b) initially stated that throughout his incarceration he was denied medical assistance and his Combivent inhaler. Upon further questioning, § 87(2)(b) stated that someone gave him his inhaler a few hours before he spoke to the Hispanic female officer. When asked to state what he actually recalled from his conversation with the Hispanic female officer, § 87(2)(b) said, “What I got out of the conversation...was ‘stay here, don’t go to the hospital, forget about you. You’re complaining about your asthma spray. You may get to see the judge today.’” Later in the afternoon, officers took § 87(2)(b) in a patrol car to § 87(2)(b).

PO Zelikov was described as a white male, 5'10" tall, with blond hair, and a thin build, about 170 pounds. PO Ahmed was a white male with brown hair, 5'10" tall, and a stockier build, about 240 pounds. § 87(2)(b) suspected that PO Zelikov was "on something" at the time of the incident because he seemed wiry and jumpy. § 87(2)(b) alleged that officers took his asthma spray from his car, a pair of boxing gloves, a set of winter gloves and other items. § 87(2)(b) was not been able to retrieve his car and he was not given any paperwork regarding his car. At the time of his CCRB interview, he did not know where his car was. § 87(2)(g)

As a result of the incident, § 87(2)(b) sustained a bump on his left temple just below his hairline, resulting from PO Zelikov's punch to the head. He also sustained a minor concussion. § 87(2)(b) had suffered soreness of his shoulder blades from when PO Ahmed struck him in the back. § 87(2)(b) stated that his Legal Aid attorney, § 87(2)(b), noticed the bump on § 87(2)(b)'s head when interviewing him before he went in front of the judge. § 87(2)(b) hired a private investigator to investigate the incident, but the investigator was unable to find anyone who witnessed this incident.

§ 87(2)(b)'s arrest photo shows no visible injuries (encl. 9).

Results of Investigation

Attempts to Locate Civilian Witnesses

Based on the statements by § 87(2)(b) and the officers, it is not likely that any other civilians were present at the time of the incident. Club Hush did not return phone calls by Inv. Clarke. On February 13, 2007, Inv. Clarke contacted § 87(2)(b) who did not recall dealing with § 87(2)(b) but acknowledged representing him at his arraignment on September 10, 2006 (encl. 10). § 87(2)(b) notes read: "defendant was struck on forehead, both knees, left elbow right upper back." § 87(2)(b) did not note that § 87(2)(b) alleged that he was struck by a police officer. § 87(2)(b) could not elaborate on what his notes regarding § 87(2)(b)'s knees, elbow and back meant because he could not recall interacting with § 87(2)(b).

Officer Statements

PO Vitoliy Zelikov

PO Zelikov prepared the arrest and complaint reports (encl. 12a-c) for § 87(2)(b) which state, "At t/p/o a/o did observe perp swerving on the roadway and nearly avoiding collision with another vehicle. Perp ignored a/o orders to stop the vehicle and continued to drive. Upon stopping his vehicle, perp refused to get out of the vehicle and struggled with the police when a/o attempted to cuff him. IDTU test conducted at 120 Precinct by PO Marino. Test# § 87(2)(b) Perps B.A.C. .169." PO Zelikov also testified for the criminal court complaint (encl. 13a-b), which contained a similar statement, adding that § 87(2)(b) had watery, bloodshot eyes, flushed face, slurred speech, his breath smelt like alcohol, and there were three empty cans of Bud Light in his car. PO Zelikov also prepared property vouchers (encl. 14a-d) for § 87(2)(b)'s car, the property found inside of the car, § 87(2)(b)'s money, and the three empty cans of Bud Light.

The Intoxicated Driver Examination paperwork (encl. 15a-f) filled out jointly by PO Zelikov and the IDTU technician, PO Joseph Marino, indicates that § 87(2)(b) had a .169 blood alcohol level. It also indicates that when § 87(2)(b) was asked to do the coordination tests, his walk was unsteady, he would not listen to instructions, did the incorrect number of steps, could not maintain a straight line, and was inaccurate in bringing his finger to his nose.

PO Zelikov was interviewed at the CCRB on March 7, 2007 (encl. 16a-c). He stands 6'0" tall and weighs 180 pounds. On September 9, 2006, PO Zelikov worked from 11:15 p.m. to 12:50 p.m. PO Zelikov was assigned to Sector G of the 123rd Precinct with PO Aiman Ahmed. He was dressed in uniform and was the driver of RMP 2642. He had the following memo book entries (encl. 11a-b) regarding the incident: "1:35 a.m. Car stop Ellis + Art Kill (Arthur Kill), 1:45 a.m. Signature of Sgt. McCauley, 1:50 a.m. 1 under transport to 120 [Precinct]."

On September 9, 2006 at approximately 1:35 a.m., PO Zelikov and PO Ahmed were outside of their vehicle issuing a parking summons on Ellis Street near a nightclub, Club Hush. When PO Zelikov first observed § 87(2)(b)'s vehicle, he was on the same side of the street as the nightclub. PO Zelikov could not recall where PO Ahmed was at this point. Ellis Street is a long dead end street with two lanes of traffic going in opposite directions. PO Zelikov first observed § 87(2)(b)'s vehicle driving away from Club Hush towards the dead end of Ellis Street. § 87(2)(b) was driving at approximately 50 miles per hour, which is above the speed limit. As § 87(2)(b) was driving, he swerved once into oncoming traffic, causing cars going the opposite way to swerve out of the way.

PO Zelikov and PO Ahmed entered their vehicle and began to pursue § 87(2)(b). By this time, § 87(2)(b) had turned around and was driving back towards Arthur Kill Road. PO Zelikov drove behind § 87(2)(b), activated the lights and sirens, and ordered § 87(2)(b) to stop over the loudspeaker. § 87(2)(b) continued driving at a normal rate of speed until he was forced to stop behind another car stopped at a stop sign. PO Zelikov and PO Ahmed exited their vehicle and PO Zelikov approached the driver's side of § 87(2)(b)'s vehicle as PO Ahmed approached the passenger's side. PO Zelikov ordered § 87(2)(b) to turn off his car and step out of his vehicle several times. § 87(2)(b) stared at PO Zelikov and did not say anything. PO Zelikov tried to open the car door using the door handle, but found that the door was locked. PO Zelikov reached in through the car window and opened the door of the car. PO Zelikov ordered § 87(2)(b) to get out of the vehicle. § 87(2)(b) stared at PO Zelikov and did not do anything. Together, PO Zelikov and PO Ahmed pulled § 87(2)(b) out of the car. PO Zelikov could not recall exactly how § 87(2)(b) was pulled out of his vehicle. § 87(2)(b) resisted by moving his body around and going limp. PO Zelikov and PO Ahmed moved § 87(2)(b) to the back of § 87(2)(b)'s vehicle and leaned the front of § 87(2)(b)'s body against the trunk of the car. § 87(2)(b) resisted by moving his body and his wrists around. PO Zelikov could not recall how long it took to handcuff § 87(2)(b).

Once § 87(2)(b) was handcuffed, PO Zelikov and PO Ahmed attempted to place him into the back of their patrol car. § 87(2)(b) stiffened up his body in order to prevent the officers from getting him into the back of the car. At one point, § 87(2)(b) jerked his body causing himself and the officers to fall to the ground. PO Zelikov was able to immediately stand § 87(2)(b) back up. PO Zelikov could not recall what part of § 87(2)(b)'s body made contact with the ground. § 87(2)(b) was mumbling as he was struggling with the officers, but PO Zelikov could not recall what § 87(2)(b) said. PO Zelikov and PO Ahmed called for an additional unit to respond to the scene. Sgt. McCauley and another unit responded to the scene. PO Zelikov could not recall who the other unit was. PO Zelikov stated that he twisted the chain of § 87(2)(b)'s handcuffs. § 87(2)(b) then complied and entered the car. PO Zelikov could not recall who helped him place § 87(2)(b) into the car.

Once § 87(2)(b) was inside the vehicle, he fell asleep because he was very intoxicated. PO Zelikov could tell that § 87(2)(b) was very intoxicated because § 87(2)(b)'s breath smelled strongly of alcohol and his face was flush. Also, there were empty beer bottles in § 87(2)(b)'s vehicle. PO Zelikov could not recall who recovered these containers and he could not recall when he first became aware of them. Another sector car transported § 87(2)(b)'s vehicle back to 123rd Precinct. PO Zelikov radioed for a highway unit to perform an intoxicated driver test and he transported § 87(2)(b) to the 120th Precinct. PO Zelikov could not recall if § 87(2)(b) woke up before he reached the 120th Precinct and PO Zelikov could not recall what § 87(2)(b)'s demeanor was like while he was being brought into the stationhouse. PO Zelikov and an officer from the highway unit, identified as PO Marino, were present when § 87(2)(b) was tested. PO Zelikov could not recall if PO Ahmed was present when § 87(2)(b) was tested. PO Zelikov could not recall what he did with § 87(2)(b) after the testing was completed. PO Zelikov could not recall when he last interacted with § 87(2)(b) on the night in question. PO Zelikov had no knowledge of § 87(2)(b) ever being taken to a hospital.

§ 87(2)(b) never appeared to have any trouble breathing and he never lost consciousness. PO Zelikov never saw § 87(2)(b)'s head strike the car while he was against the car and PO Zelikov never saw § 87(2)(b)'s head strike the ground when he fell to the ground. Neither PO Zelikov nor PO Ahmed knocked § 87(2)(b) to the ground while handcuffing him. PO Zelikov stated that § 87(2)(b) never asked for medical attention. PO Zelikov specifically asked § 87(2)(b) if he was sick or needed an ambulance and § 87(2)(b) said, "No." § 87(2)(b) never indicated that he was having an asthma attack. Neither PO Zelikov nor any other officer punched, kicked or struck § 87(2)(b) in the head. No officer knocked § 87(2)(b) to the ground and § 87(2)(b) never appeared to suffer a head injury. PO Zelikov never noticed any injuries on § 87(2)(b).

PO Aiman Ahmed

PO Ahmed was interviewed at the CCRB on March 16, 2007 (encl. 18a-c). He stands 6'3" tall and weighs 240 pounds. On September 9, 2006, PO Ahmed worked from 11:15 p.m. to 7:15 a.m. and was assigned to patrol sector G with PO Zelikov. PO Ahmed was dressed in uniform and was the recorder in RMP 2642. He had the following memo book entries (encl. 17a-c) regarding this incident: "1:35 a.m. Car Stop @ 55 Ellis, 1:40 a.m. Observed male white, slurred speech, stench of alcohol, swaggering/swaying motion, 1:50 a.m. one under @ 55 Ellis DWI, 2:20 a.m. 84 @ APO, 6:25 a.m. @123, 6:50 a.m. EOT" PO Ahmed's statement regarding the initial observation of § 87(2)(b) was consistent with PO Zelikov's statement above. He gave additional detail about § 87(2)(b)'s apprehension.

When the officers approached § 87(2)(b)'s vehicle, the officers ordered § 87(2)(b) to get out of his vehicle but he did not comply. PO Zelikov opened the door and pulled § 87(2)(b) out of the vehicle. Once § 87(2)(b) was out, PO Zelikov ordered § 87(2)(b) to turn around and place his hands behind his back. PO Ahmed noticed that § 87(2)(b) was slurring his speech and staggering once he was outside of his vehicle. § 87(2)(b) asked, "What did I do?" PO Zelikov ordered § 87(2)(b) to place his hands behind his back again. PO Zelikov grabbed hold of one of § 87(2)(b)'s arms and PO Ahmed grabbed one of § 87(2)(b)'s other arms. § 87(2)(b) tensed his body and swung his arms and elbows backwards at the officers. PO Ahmed thought that it looked as though § 87(2)(b) was attempting to hit him. PO Ahmed and PO Zelikov attempted to hold § 87(2)(b). PO Ahmed tapped the back of § 87(2)(b)'s left knee with his knee. § 87(2)(b)'s knee buckled and his left knee hit the ground and § 87(2)(b) ended up chest down on the ground. § 87(2)(b) resisted by tensing up his arms. PO Zelikov pulled one of § 87(2)(b)'s arms behind his back and PO Ahmed pulled the other arm behind his back. PO Zelikov handcuffed § 87(2)(b). PO Zelikov grabbed § 87(2)(b) by his right arm and PO Ahmed grabbed § 87(2)(b) by his left arm. The two officers then picked § 87(2)(b) up.

PO Ahmed and PO Zelikov attempted to place § 87(2)(b) into their vehicle. PO Anil Cherian arrived to assist PO Ahmed and PO Zelikov. PO Ahmed could not recall if anyone arrived with PO Cherian. When PO Ahmed and PO Zelikov opened the door of their car and tried to place § 87(2)(b) inside, § 87(2)(b) resisted by tensing up his body and refusing to get into the car. PO Ahmed, PO Zelikov and PO Cherian placed § 87(2)(b) into the car. It took "a lot of effort" to place § 87(2)(b) into the car, but § 87(2)(b) complied and entered the car after the officers twisted his handcuffs.

PO Ahmed and PO Zelikov transported § 87(2)(b) to the 120th Precinct for testing. PO Ahmed could not recall what § 87(2)(b)'s demeanor was like when he was being transported. § 87(2)(b) never appeared to lose consciousness. PO Ahmed could not recall what happened once he reached the stationhouse. PO Ahmed could not recall having any interaction with § 87(2)(b) while his arrest was being processed at the stationhouse. § 87(2)(b) never appeared to have trouble breathing. PO Ahmed could not recall if § 87(2)(b) ever requested his asthma inhaler or requested medical attention. § 87(2)(b) never had any visible injuries. § 87(2)(b)'s head did not make contact with anything as he fell to the ground and his head did not hit anything while he was on the ground. PO Ahmed could not recall what happened to § 87(2)(b)'s car. PO Ahmed did not recall seeing any containers of alcohol in § 87(2)(b)'s car. PO Ahmed never tackled § 87(2)(b).

to the ground. PO Zelikov never punched § 87(2)(b) in the head. No officer punched, kicked or struck § 87(2)(b)

PO Anil Cherian

PO Cherian was interviewed at the CCRB on March 23, 2007 (encl. (20a-b)). On September 9, 2006, PO Cherian worked from 11:15 p.m. to 7:15 a.m. He was in uniform, assigned to Sectors B and D, and the recorder in RMP 4453. PO Michael Ruby was his partner. PO Cherian did not have any memo book entries (encl. 19a-c) regarding this incident.

On September 9, 2006 at approximately 1:50 a.m., PO Cherian and PO Ruby were writing parking summonses near 101 Ellis Street when they heard Sector E, PO Zelikov and PO Ahmed, call for assistance. PO Cherian and PO Ruby entered their vehicle, turned their car around and drove to the intersection of Ellis Street and Arthur Kill Road. When PO Cherian reached the intersection, he saw PO Zelikov and PO Ahmed standing near the rear passenger's side door of their patrol car. The car door was open and the two officers were attempting to place a handcuffed male perpetrator, identified by the investigation as § 87(2)(b) into the car. § 87(2)(b) was about four feet from the car door and he was twisting his upper body around fighting against the officers. PO Cherian and PO Ruby exited their vehicle and PO Cherian went to assist PO Zelikov and PO Ahmed. PO Cherian grabbed hold of § 87(2)(b)'s hands with PO Zelikov and PO Ahmed. The officers struggled with § 87(2)(b) for approximately two minutes in order to place him into the vehicle. Once § 87(2)(b) was inside the patrol car, PO Cherian and PO Ruby resumed patrol. PO Cherian did not have any further contact with § 87(2)(b) and never saw him again that night. PO Cherian had never dealt with § 87(2)(b) before and he has not dealt with him since.

PO Cherian never observed any injuries on § 87(2)(b). § 87(2)(b) never appeared to have trouble breathing nor did he complain of pain or injury or request medical attention. PO Ruby never had physical contact with § 87(2)(b). Neither PO Zelikov nor any other officer opened up the rear door of the patrol car and punched § 87(2)(b) once he was inside of the vehicle. PO Cherian never saw § 87(2)(b) get knocked to the ground.

Additional Officer Statements

Based on the civilian and officer statements as well as the police and medical documentation, it was not necessary to interview additional officers who responded to the scene or may have interacted with § 87(2)(b) at the 120th Precinct stationhouse because their statements would not have affected the disposition of the allegations.

Medical Documents

Medical records from § 87(2)(b) (encl. 21a-m) indicate that § 87(2)(b) was treated at § 87(2)(b). § 87(2)(b) stated that he needed his inhaler and had trouble breathing. He was diagnosed with asthma. He was treated for his asthma and released at § 87(2)(b). His physical exam indicated that he had no other injuries and he did not complain of any injuries.

Police Documents

According to the SPRINT report (encl. 22a-b), Sector G of the 123rd Precinct conducted a vehicle stop at 1:41 a.m. and requested an additional unit at 1:42 a.m. Sectors E and C responded and at 1:50 a.m., Sector G had a criminal arrest and requested that a highway unit respond to the 120th Precinct.

PO Marino's memo book and chemical test analysis paperwork (encl. 23a-d) confirm that § 87(2)(b) had a .169 blood alcohol level. The 120th Precinct command log (encl. 24) indicates that § 87(2)(b) arrived at the precinct at 2:24 a.m. and had an intoxicated physical/mental condition and a .169 BAC. The 120th Precinct Prisoner Holding Pen Roster (encl. 25a-d) indicates that § 87(2)(b) was placed into the holding cell at 5:10 a.m. and was taken to the hospital at 4:30 p.m. None

of the cell attendants were Hispanic females. The 123rd Precinct Roll Call (encl. 26a-e) indicates that PO Ruby and PO Cherian were assigned to Sectors BD, PO Ahmed and PO Zelikov to Sector G, and PO Alexander Goldberg and PO Daniel Deloatch were assigned to Sectors EF. The 120th Precinct Roll Call (encl. 27a-d) indicates that PO Joseph Tripi was the male cell attendant and PO Sylvia Faison, a black female, was the female cell attendant.

Disposition of September 9, 2006 Arrest

According to the Office of Court Administration (OCA) (encl. 29a-j), on § 87(2)(b), § 87(2)(b) pleaded guilty to driving while intoxicated. § 87(2)(b)

Civilian and Officer Histories

This is § 87(2)(b)'s first CCRB complaint (encl. 3). § 87(2)(b)

PO Zelikov and PO Ahmed have no prior substantiated CCRB complaints (encl. 2a-b). They both have two years of tenure with the NYPD.

Conclusions and Recommendations

Officer Identification

PO Zelikov and PO Ahmed were identified based on the arrest paperwork and § 87(2)(b)'s physical descriptions. From civilian and officer statements, it is clear that PO Zelikov was the officer who initially approached § 87(2)(b) and took him out of the car and that PO Ahmed was on the passenger side. Therefore, the allegation of striking § 87(2)(b) in the back is pleaded against PO Ahmed and the allegation of the punch to the face is pleaded against PO Zelikov. At least three officers [PO Zelikov, PO Ahmed, and PO Cherian] were needed to place § 87(2)(b) into the patrol car and it is likely, based on statements by the officers and § 87(2)(b) that additional officers may have helped. The physical force used to place him into the patrol car is addressed in an allegation pleaded against "Officers."

Undisputed and Disputed Facts

It is undisputed that PO Zelikov and PO Ahmed stopped § 87(2)(b) while he was driving. It is undisputed that § 87(2)(b) had some alcohol to drink that night. PO Zelikov and PO Ahmed then arrested § 87(2)(b) who resisted being placed in the patrol car. There is a dispute over how intoxicated § 87(2)(b) was, whether he was driving recklessly, how PO Zelikov and PO Ahmed pulled § 87(2)(b)'s vehicle over, whether he exited his vehicle on his own power, whether PO Ahmed struck § 87(2)(b) from behind to take him to the ground, whether PO Zelikov punched him in the face, and whether officers refused to provide him medical treatment.

Credibility Analysis

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegations Not Pleaded

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) claims that he was denied medical treatment throughout his stay in the 120th Precinct Stationhouse. § 87(2)(g)

§ 87(2)(g)

Allegation A: PO Aiman Ahmed used physical force against § 87(2)(b)

Allegation B: Officers used physical force against § 87(2)(b)

Allegation C: PO Vitoliy Zelikov used physical force against § 87(2)(b)

§ 87(2)(b) was heavily intoxicated and uncooperative when he was pulled over in front of Club Hush on Staten Island. He admitted that he resisted being placed into the patrol car and the officers' statements that § 87(2)(b) was physically resistant are credited. It is undisputed that physical force was necessary to subdue § 87(2)(b) and place him into the patrol car. PO Ahmed admitted to taking § 87(2)(b) to the ground because he was refusing to be handcuffed and § 87(2)(b) acknowledged that he resisted the officers attempts to put him into the patrol car. In *PD vs. Teeter* (2001, OATH Index No. 590/01), an Administrative Law Judge ruled, "Once an officer has properly determined to arrest an individual, he is entitled to use a minimal or reasonable amount of force in order to restrain and handcuff the individual. To the extent that an arrestee offers resistance to arrest, the permissible level of force used by the officer may be increased to the extent necessary to overcome the resistance" (encl. 1a-b).

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: